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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,039	06/14/2001	Takeo Katsuda	011350-276	5950

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EXAMINER

DUONG, THOMAS

ART UNIT PAPER NUMBER

2145

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/880,039

Applicant(s)

KATSUDA, TAKEO

Examiner

Thomas Duong

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2145

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-46.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


JASON CARBONE
SPB AU 2145

Response to Argument

1. The Applicants' arguments and amendments filed on November 16, 2005 have been fully considered, but they are not persuasive.

2. With regard to claim 1, the Applicants point out that,

- *Hence, even if one were to interpret the established rules as a form of location information acquiring device, as set forth in the Office Action, there is no nexus between these rules and the selection of the image output device. As such, the selection is not made "on the basis of the location information acquired by said location acquiring device," as required by claim 1 .*

However, the Examiner finds that the Applicants' arguments are not persuasive because Miller teaches of step of locating the addressee (i.e. subscriber) *"according to the rules he [has] previously established (or defaulted to, as appropriate)"* (Miller, col.5, lines 2-3). According to Miller, *"the ability for a user (recipient) to define a set of rules that determine how/when messages and their notification are to be treated ... such as a permanent rule (SMS notification to Thomas' handset) and a vacation rule (e.g., hold messages but notify Thomas at his hotel telephone), ... etc., are easily envisioned and implemented as appropriate"* (Miller, col.4, lines 49-60).

Hence, Miller teaches of an environment where an email addressed to an addressee (i.e. subscriber) from the Internet is received at the service controller, a receipt notification is selectively generated and delivered to the addressee, the addressee is located and finally the intended email is displayed to the subscriber or outputted to a device (i.e. facsimile) according to subscriber's preference. Miller describes a

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method of locating the subscriber automatically via established rules and determining the appropriate outputting device to which the notification message is directed.

3. With regard to claim 14, the Applicants point out that,

- *Claim 14 recites the feature of transmitting to the certain destination both an e-mail receipt notification and an email identifying multiple prospective image output devices. The final Office Action does not indicate where the Miller patent discloses the transmission of both of these forms of information to the destination address. At best, the rejection explains where the Miller patent discloses sending a notification that a message has been received. However, it has not shown that the Miller patent also discloses sending an email identifying multiple prospective image output devices.*

However, the Examiner finds that the Applicants' arguments are not persuasive because Miller teaches of an environment where an email addressed to an addressee (i.e. subscriber) from the Internet is received at the service controller, a receipt notification is selectively generated and delivered to the addressee, the addressee is located and finally the intended email is displayed to the subscriber or outputted to a device (i.e. facsimile) according to subscriber's preference. According to Miller, the "delivery subsystem 160 handles the actual delivery of output of service complex 101. Importantly, the output need not be a 'message' but could simply be notification that a message has been received, [and that] ... the delivery subsystem 160 can handle a variety of output formats, voice/fax 162, short message 161, and e-mail 163" (Miller, col.3, lines 33-38). According to Miller, the subscriber is able to specify the retrieval method, i.e., SMS, fax, voice, etc. based on the selections

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presented in the message. Hence, Miller anticipates of the system presenting the available options to display the message.

4. With regard to claim 32, the Applicants point out that,

- *Claim 32 recites an acquiring device acquiring the data that indicates an image output device selected on the basis of the location detected by the detecting device. Theimer discloses that the location of a user can be determined. However, it does not disclose a device that acquires "the data that indicates an image output device selected on the basis of the [detected] location," as recited in claim 32.*

However, the Examiner finds that the Applicants' arguments are not persuasive because Theimer teaches of an environment where a message is received at a portable terminal unit, the available delivery methods based on the location of the subscriber are detected, and delivering the data to the appropriate output or display device. In particular, Theimer discloses "*a method for selectively delivering messages to an identified user in a system of mobile and fixed devices, ... where the identity and location of each device, display device, and user may be known to the system, based on the context of the system and the environment of the identified user*" (Theimer, col.4, lines 27-33). Furthermore, Theimer states "*the system perceives contextual attributes for the identified user, including display devices in close proximity to the identified user, and determines a display property for said electronic message based on the contextual attributes, the user profile properties, and the level of privacy and level of priority of the electronic message*" (Theimer, col.4, lines 37-42).